

November 21, 2017

Mr. John Canoles  
Eco-Science Professionals, Inc.  
P O Box 5006  
Glen Arm, MD 21057

Re: Tradepoint Atlantic – PCS Site  
Critical Area Administrative Variance  
(Tracking #07-17-2576)

Dear Mr. Canoles:

The Department of Environmental Protection and Sustainability (EPS) has received your variance request to allow the continued use of 1.52 acres of the 100-foot buffer for access to the site, the railroad tracks, and for future development. The Director of EPS may grant a variance to the Chesapeake Bay Critical Area regulations in accordance with regulations adopted by the Critical Area Commission concerning variances as set forth in COMAR 27.01.11. There are five (5) criteria listed in COMAR 27.01.11 that shall be used to evaluate the variance request. All five of the criteria must be met in order to approve the variance.

The first criterion requires that special conditions exist that are peculiar to the land or structure, and that literal enforcement of the regulations would result in unwarranted hardship. The access and railroad tracks currently exist in the 100-foot buffer and was previously used as access for a pig iron plant. The buffer is comprised of slag and other impervious materials. No new impacts to the buffer beyond what currently exist will occur on this lot. Therefore, a strict enforcement of these requirements of the Critical Area Regulations would preclude ability to access the site. Consequently, this criterion has been met.

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. Similarly encumbered properties, including the adjacent concrete plant, have received the same consideration when all variance criteria had been met. Therefore, this criterion has also been met.

The third criterion requires that granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area. The access and railroad have been in use for many years, and no new structures are proposed within the buffer. Granting a variance to allow continued use of the 100-foot buffer would not confer special privileges upon the applicant. Therefore, this criterion has been met.

The fourth criterion requires that a variance is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property. The industrial use of the site goes back many years and the access and railroad have been in use since prior to inception of Chesapeake Bay Critical Area regulations. Therefore, the request is not based upon conditions or circumstances that are the result of the applicant's actions, and this criterion has been met.

The fifth criterion requires that granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Chesapeake Bay Critical Area regulations. The adjacent forested buffer will be put in a Critical Area Easement, which will minimize water quality impacts and be in harmony with the general spirit and intent of the regulations.

Based upon our review, this Department finds that the first four of the above criteria have been met, and that the fifth criterion can be met by mitigating as specified below. Therefore, the requested variance is hereby approved in accordance with Section 33-2-205 of the Baltimore County Code with the following conditions:

1. The following note must appear on all subsequent plans:

“A variance was granted on November 21, 2017 by the Baltimore County Department of Environmental Protection and Sustainability from certain requirements of the Critical Area Regulations.”

2. The adjacent buffer area not included in this Critical Area variance shall be put in a Critical Area Easement/Forest Buffer easement prior to the approval of any permits.

It is the intent of this Department to approve this variance subject to the above conditions. Changes in site layout may require submittal of revised plans and an amended variance request.

Please sign the statement on the next page, and then return the letter to this Department c/o Ms. Regina Esslinger of Environmental Impact Review. Failure to return a

Mr. John Canoles  
Tradepoint Atlantic – PCS Site  
November 21, 2017  
Page 3

signed copy of this letter may result in delays in processing of permits or other development plans for the subject property, and/or may render this variance null and void.

If you have questions regarding this project, please contact Regina Esslinger at 410-887-3980.

Sincerely,

David V. Lykens  
Deputy Director

c: Ms. Claudia Jones, Critical Area Commission  
Mr. John Martin, TPA  
Mr. Chris Mudd

I/We have read and agree to implement the above requirements to bring my property into compliance with Chesapeake Bay Critical Area regulations.

---

Owner's Signature

Date

---

Owner's Printed Name